IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.425 OF 2001

Sitabai sakharam Rawoot & ors. ...Appellants

vs.

Bhikaji Tukaram Rawoot & Anr. ...Respondents

Mr.V.T.Walavalkar with S.R.Bhalekar for the Appellants
Mr.S.M.Kazi for the Respondent No.1

CORAM: A.S.OKA,J.
DATE : MARCH 3,2005.

P.C.:

1. Heard Counsel appearing for the parties. The Courts below have passed a decree for partition holding that the Respondents-Plaintiffs have one third share in the suit land. The Courts below have held that late Sakharam was in occupation of the land in dispute on behalf of the Joint family.

2. Shri Walawalkar for the Appellants submitted that the findings recorded by the Appellate Court in paragraph No.11 are perverse in as much as co-relation between the amounts sent by the Money Orders and payment of amount for obtaining regrant of the property is not established. He also invited my attention to the findings recorded in paragraph No.12 of the Judgment by the Appellate Court. He submitted that there is nothing on record to show that the original Plaintiffs made any attempt to enter their names in revenue record in respect of the land in question.

3. I have considered the submissions. The Appellate Court in paragraph No.10 has referred to the documents at Exh.87 and 88 which relate to the years 1902-03 to 1916-1917 which show that the ancestors of the parties were cultivating the suit properties. In paragraph No.11 the Appellate Court has recorded a finding that the Appellants could not show that Sakharam had any source of income sufficient for payment of occupancy price. In that context, the Appellate Court has accepted the evidence led by production of Money Orders/coupens.

4. There are concurrent findings recorded by both the Courts below. There is no perversity in the findings of the courts below and the said findings are based on consideration of oral and documentary evidence on record. Second Appeal is dismissed with no order as to costs.

JUDGE.